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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,987	03/19/2004	Andrew Friedman	00169.101880.	6907
5514 7590 05/20/2009 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
KHAN, ASHER R				
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2621				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/803,987

**Applicant(s)**

FRIEDMAN, ANDREW

**Examiner**

ASHER KHAN

**Art Unit**

2621

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6, 8-16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-4, 6, 8-16, and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1,13, 15, 16 and 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Track control attributes that are independent of time. Specification only mentions that attributes are set to true or false in paragraph 0063.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, 6, 9-16, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 6,970,639 to McGrath et al. "McGrath".

As to claims 1, 13, 15, 16 and 18, McGrath discloses a method of generating a dependent media track, the dependent media track comprising a sequence of dependent media items, said method comprising the steps of: arranging a sequence of Edit Decision List (EDL) elements (Figs. 3A and 4B, Template, 410) for source media items in a source media track (Fig. 4B, source material), wherein the EDL elements contain track control attributes (sections and edit effects for example intro, wipe, cut and etc, Fig. 2; Col. 6, lines 50-52) for that are independent of time; and generating a dependent media item (edited content sequence of media items with template with some sections that are not populated, Fig. 4A; Col. 11 line 4-9; Col. 10, lines 52-65) in the dependent media track in accordance with the track control attributes (sections and edit effects for example intro, wipe, cut and etc, Fig. 2; Col. 10, lines 60-65) and another dependent media item in the dependent media track (edited content sequence of media items after reapplication of template, fig. 4B, 460; Col. 10, lines 52-65).

As to claims 2 and 14, McGrath discloses everything claimed as applied in claim 1 above. McGrath further discloses further comprising the steps of: re-arranging the EDL elements (templates can be created for different desired styles thus they could be rearranged, Col. 2, lines 25-30) ; and re-generating the dependent media item in the dependent media track in accordance with the track control attributes (there must be regeneration of template after rearranging of the template), the re-arranged sequence of EDL elements, and another dependent media item in the

dependent media track (edited content sequence of media items after reapplication of template, fig. 4B, 460).

As to claim 3, McGrath discloses everything claimed as applied in claim 1 above. McGrath further discloses wherein the re-arranging step comprises deletion of at least one EDL elements (user can add or delete any editing effects such as wipes, page turns and etc between sections as desired as shown between fig. 2 and fig. 3A, Col. 6 line 50-67).

As to claim 4, McGrath discloses everything claimed as applied in claim 1 above. McGrath further discloses wherein commencement of the dependent media track (edited content sequence Col. 10, lines 52-65) is in accordance with a track control attribute (intro, Fig. 3A) associated with an EDL element in the sequence of the EDL elements.

As to claim 6, McGrath discloses everything claimed as applied in claim 1 above. McGrath further discloses wherein termination of the dependent media track (edited content sequence, Col. 10, lines 52-65) is in accordance with a track control attribute (Outside Commentary, 350, Fig. 3A) associated with an EDL element in the sequence of the EDL elements.

As to claim 9, McGrath discloses everything claimed as applied in claim 1 above. McGrath further discloses, wherein a copy of the template (Fig. 3A) is transformed to thereby form the dependent media track (Fig. 3C) (Col. 7 lines 45-67, Col. 8 lines 1-15).

As to claim 10, McGrath discloses everything claimed as applied in claim 1 above. McGrath further discloses wherein the dependent media item in the dependent

media track comprises a copy of the source media item (Fig. 3C is a copy of Fig. 3B), in the source media track, which is referenced by a track control attribute (intro, wipe, cut and etc, Fig. 2; Col. 6, lines 50-52) associated with an EDL element in the sequence of EDL elements (sections and edit effects for example intro, wipe, cut and etc, Fig. 2; Col. 10, lines 60-65).

As to claim 11, McGrath discloses everything claimed as applied in claim 1 above. McGrath further discloses wherein a copy of the source media item (Fig. 3B) is transformed to form the dependent media item in the dependent media track (Fig. 3C).

As to claim 12, McGrath discloses everything claimed as applied in claim 1 above. McGrath further discloses wherein a said track control attribute comprises one of an attribute to activate (Fig. 2, 200) the dependent media item and an attribute to deactivate (Fig. 2, 240) the dependent media item (Fig. 2).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,970,639 B1 to McGrath et al "McGrath" in view of U.S. Patent 5,801,685 to Miller et al "Miller".**

As to claim 8, McGrath discloses everything claimed as applied in claim 1 above. McGrath discloses everything claimed as applied in claim 1 above. McGrath further

discloses wherein the dependent media track (Fig. 3C) is copied from a template (Fig. 3A) which is referenced by one of said the track control attributes (Col. 10 lines 16-25). McGrath does not expressly disclose that media track is a graphical overlay.

Miller discloses that the media track (Fig. 3, 70) is a graphical overlay (Fig. 3).

At the time of invention it would have been obvious to a person of ordinary skill in the art to combine McGrath with the teaching of Miller. Rationale to have combined would be that all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of invention.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ASHER KHAN whose telephone number is (571)270-5203. The examiner can normally be reached on 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571)272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marsha D. Banks-Harold/  
Supervisory Patent Examiner, Art Unit 2621

/A. K./  
Examiner, Art Unit 2621